

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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ROBERT SARVIS, :
: Plaintiff, : No. 1:12-cv-12233-LTS
: v. : Hon. Leo T. Sorokin (presiding)
POLYVORE, INC., : Hon. Marianne B. Bowler
: Defendant. :
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**DEFENDANT POLYVORE'S CROSS-MOTION
FOR JUDGMENT ON THE PLEADINGS**

Pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, Defendant, Polyvore, Inc. hereby cross-moves for Judgment on the Pleadings.

As set forth in Polyvore's Opposition to Plaintiff's Motion for Partial Judgment on the Pleadings and Memorandum of Law in Support of Polyvore's Cross-Motion for Judgment on the Pleadings filed herewith, only the "legal or beneficial owner" of a copyright is entitled to bring suit for the infringement of a copyright. Mr. Sarvis has failed to allege that he is the "legal or beneficial owner" of the copyrights he alleges were infringed and therefore his claim fails as a matter of law. 17 U.S.C. § 501(b); *see also Latin Am. Music Co. v. The Archdiocese of San Juan of Roman Catholic & Apostolic Church*, 499 F.3d 32, 41 (1st Cir. 2007); *Righthaven LLC v. Hoehn*, 716 F.3d 1166, 1170 (9th Cir. 2013).

Accordingly, Polyvore is entitled to judgment in its favor, and this suit should be dismissed. Therefore, the Court should grant Polyvore's cross-motion for judgment on the pleadings, on all counts, because Sarvis' own complaint—and the "assignment" on which it

rests—demonstrates that he does not even claim to be the “legal or beneficial owner” of the copyrights asserted, and therefore lacks standing to bring this action under the Copyright Act.

In support of this Motion, Polyvore relies on the supporting memorandum filed herewith.

WHEREFORE, Defendant, Polyvore, Inc. respectfully requests that the Court:

- (1) Deny Plaintiff’s Motion for Partial Judgment on the Pleadings;
- (2) Grant Polyvore’s Cross-Motion for Judgment on the Pleadings; and
- (3) Grant such other relief as the Court deems just and appropriate.

ORAL ARGUMENT REQUESTED

Pursuant to Local Rule 7.1(D), Polyvore, Inc. seeks oral argument on this Motion.

Dated: May 11, 2015
New York, New York

Respectfully submitted,

GIBSON, DUNN & CRUTCHER LLP

/s/ Orin Snyder
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Attorneys for Defendant Polyvore, Inc.

LOCAL RULE 7.1(A)(2) CERTIFICATE

Pursuant to Local Rule 7.1(D), I hereby certify that counsel for Polyvore, Inc. has conferred with Mr. Sarvis and has attempted in good-faith to resolve or narrow the issues presented by this motion.

/s/ Joshua D. Nadreau
Joshua D. Nadreau

CERTIFICATE OF SERVICE

I hereby certify that on May 11, 2015, a true copy of the above document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing, and paper copies will be sent to those indicated as non-registered participants.

/s/ Joshua D. Nadreau
Joshua D. Nadreau